

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CHARLES JARVIS and KARON JARVIS,

Plaintiffs,

-against-

07 CIV. 8181 (RMB)

VARIAN MEDICAL SYSTEMS, INC.,

Defendant.

REPLY AFFIDAVIT IN SUPPORT OF MOTION SEEKING AN ORDER: (1) PURSUANT TO 28 U.S.C. §1447(E), FEDERAL RULE OF CIVIL PROCEDURE 15, AND FEDERAL RULE OF CIVIL PROCEDURE 20, GRANTING PLAINTIFFS PERMISSION TO JOIN AS DEFENDANTS IN THE INSTANT ACTION JAMES BUTLER, M.D. AND MONTEFIORE MEDICAL CENTER, THE RESULT OF WHICH WOULD BE A LOSS OF DIVERSITY JURISDICTION REQUIRING REMAND TO THE NEW YORK STATE SUPREME COURT, BRONX COUNTY, OF THE ENTIRE ACTION; AND (2) FOR SUCH OTHER AND FURTHER RELIEF AS THIS COURT DEEMS EQUITABLE AND PROPER.

STATE OF NEW YORK)
COUNTY OF NASSAU) ss:

PAUL N. NADLER, ESQ., being duly sworn, deposes and says:

1. I am an attorney duly admitted to practice law in the Courts of the State of New York and the Federal Courts for the Southern and Eastern Districts of the State of New York, and am associated with the firm of Silberstein, Awad & Miklos, P.C., the attorneys for the following plaintiffs Charles Jarvis and Karon Davis ("plaintiffs").

2. I submit this Reply Affidavit in support of the within application of the above-mentioned plaintiffs. A Memorandum of Law is annexed as part of plaintiffs' reply papers, and contains the arguments in response to those raised by Varian

Medical Systems, Inc. ("Varian") in its opposition papers.

3. Annexed to this Reply Affidavit are the following Exhibits:

A - copies of Montefiore Medical Center ("Montefiore") Department of Oncology records.

B - copy of Montefiore website printout.

C - copy of Montefiore website printout.

D- copies of records from Montefiore Department of Radiation Oncology (i.e., letters from Dr. Butler).

E- copy of Montefiore Department of Radiation Oncology record.

F- copy of Montefiore Department of Radiation Oncology record.

G - copies of receipts showing dates of commencement of State Court actions.

WHEREFORE, it is respectfully requested that the plaintiffs' instant motion be granted and this Court issue an Order substantially in the form annexed to plaintiffs' moving papers as Exhibit "A":

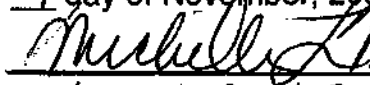
(1) Pursuant to 28 U.S.C. §1447(e), Federal Rule of Civil Procedure 15, and Federal Rule of Civil Procedure 20, granting plaintiffs permission to join as defendants in the instant action James Butler, M.D. and Montefiore Medical Center, the result of which would be a loss of diversity jurisdiction requiring remand to the New York State Supreme Court, Bronx County, of the entire action; and

(2) For such other and further relief as this Court deems equitable and proper.


PAUL N. NADLER, ESQ. (pn 3381)

MICHELLE LAMARCHE
Notary Public, State of New York
No. 01LA6151730
Qualified in Suffolk County
Commission Expires August 21, 2010

Sworn to before me this
7 day of November, 2007.


NOTARY PUBLIC